108TH CONGRESS
1ST SESSION

H. R. 947

To authorize local educational agencies to prohibit the transfer of students under section 1116 of the Elementary and Secondary Education Act of 1965 to schools that are at or above capacity, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 26, 2003

Mr. WEINER introduced the following bill; which was referred to the Committee on Education and the Workforce

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A BILL

To authorize local educational agencies to prohibit the transfer of students under section 1116 of the Elementary and Secondary Education Act of 1965 to schools that are at or above capacity, and for other purposes.

1   *Be it enacted by the Senate and House of Representa-*

2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4   This Act may be cited as the "School Capacity Relief

5 Act".

1 **SEC. 2. TRANSFER OF STUDENTS TO SCHOOLS AT OR**

2 **ABOVE CAPACITY.**

3 (a) IN GENERAL.—Paragraph (1) of section 1116(b)

4 of the Elementary and Secondary Education Act of 1965

5 (20 U.S.C. 6316(b)(1)) is amended—

6 (1) in subparagraph (E)(i), by striking "In the

7 case of a school" and inserting "Subject to clauses

8 (ii) and (iii) of subparagraph (F), in the case of a

9 school"; and

10 (2) in subparagraph (F)—

11 (A) by striking "(F) TRANSFER.—Stu-

12 dents who use" and inserting the following:

13 "(F) TRANSFER.—

14 "(i) IN GENERAL.—Students who

15 use"; and

16 (B) by adding at the end the following:

17 "(ii) TRANSFER TO SCHOOL ABOVE

18 CAPACITY.—Subject to the right of a child

19 who has been transferred to another school

20 under this subsection to remain in that

21 school under paragraph (13), a local edu-

22 cational agency may prohibit the transfer

23 under subparagraph (E), paragraph

24 (5)(A), (7)(C)(i), or (8)(A)(i), or sub-

25 section (c)(10)(C)(vii), of any student to a

26 school served by the agency, if the agency

1 determines (for purposes of the school year

2 at issue) that the school is at or above ca-

3 pacity or that the transfer of an additional

4 student would increase the average class

5 size of the school above the average class

6 size prescribed by the State.

7 "(iii) NO MANDATORY INCREASE OF

8 CAPACITY.—A local educational agency

9 may not be required to increase the capac-

10 ity of any school served by the agency for

11 the purpose of transferring any student to

12 that school under subparagraph (E), para-

13 graph (5)(A), (7)(C)(i), or (8)(A)(i), or

14 subsection (c)(10)(C)(vii).".

15 (b) COOPERATIVE AGREEMENT.—Paragraph (11) of

16 section 1116(b) of the Elementary and Secondary Edu-

17 cation Act of 1965 (20 U.S.C. 6316(b)(11)) is amended

18 to read as follows:

19 "(11) COOPERATIVE AGREEMENT.—In any case

20 described in paragraph (1)(E), (5)(A), (7)(C)(i), or

21 (8)(A)(i), or subsection (c)(10)(C)(vii), if all public

22 schools served by the local educational agency to

23 which a child may transfer are identified for school

24 improvement, corrective action, or restructuring, or

25 are determined by the agency to be at or above ca-

1 pacity or otherwise ineligible for a transfer under

2 paragraph (1)(F)(ii), the agency shall, to the extent

3 practicable, establish a cooperative agreement with

4 other local educational agencies in the area for a

5 transfer.''.

SEC. 3. GRANTS FOR INCREASING SCHOOL CAPACITY.

7 (a) GRANTS.—Title IV of the Elementary and Sec-

8 ondary Education Act of 1965 (20 U.S.C. 7101 et seq.)

9 is amended by adding at the end the following:

"PART D—INCREASING SCHOOL CAPACITY

"SEC. 4401. GRANTS.

12 ''(a) AUTHORITY.—The Secretary may award grants

13 to eligible local educational agencies for the purpose of in-

14 creasing capacity at high-performance schools.

15 ''(b) USE OF FUNDS.—The Secretary may not make

16 a grant under this section unless the eligible local edu-

17 cational agency involved agrees that the agency will use

18 the funds received under the grant only for measures to

19 increase the capacity of high-performance schools served

20 by that agency. Such measures may include renovating or

21 constructing facilities at the high-performance school in-

22 volved, hiring teachers to teach at such school, or pur-

23 chasing instructional materials for use at such school.

24 ''(c) APPLICATION.—To seek a grant under this sec-

25 tion, an eligible local educational agency shall submit an

1 application to the Secretary at such time, in such manner,

2 and containing such information as the Secretary may re-

3 quire.

"SEC. 4402. DEFINITIONS.

5   "For purposes of this part:

6   "(1) The term 'eligible local educational agency'

7   means a local educational agency with a high per-

8   centage or number of students at schools identified

9   for school improvement, corrective action, or restruc-

10   turing under section 1116(b).

11   "(2) The term 'high-performance school' means

12   a school that is not identified for school improve-

13   ment, corrective action, or restructuring under sec-

14   tion 1116(b).

"SEC. 4403. AUTHORIZATION OF APPROPRIATIONS.

16   "There are authorized to be appropriated to carry out

17 this part such sums as may be necessary for each of fiscal

18 years 2004 through 2007.".

19   (b) CONFORMING AMENDMENT.—The table of con-

20 tents at section 2 of the Elementary and Secondary Edu-

21 cation Act of 1965 is amended by inserting after the item

22 relating to section 4304 the following:

"PART D—INCREASING SCHOOL CAPACITY

SEC. 4. ESTABLISHMENT OF LIMITS ON DURATION OR DIS-TANCE OF TRANSPORTATION PROVIDED TO TRANSFERRING STUDENTS.

Paragraph (9) of section 1116(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(b)(9)) is amended by inserting before the period the following: '', unless the agency establishes a limit on the duration or distance of transportation to be provided or paid for under this paragraph and determines that transporting the student would exceed such limit.''.

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